

OPINION
58-102

September 22, 1958 (OPINION)

ELECTIONS

RE: No-Party ballot - vacancy

Referring to our telephone conversation of this forenoon, in which you raised the question relative to filling vacancies existing on a no-party ballot in a county, I would say that the two sections in chapter 16-08 of the 1957 Supplement to the North Dakota Revised Code of 1943 seem to clearly indicate how and when a vacancy exists.

According to section 16-0804, a candidate or candidates receiving the highest number of votes to the extent of double the number of persons to be elected to any office, if that many or more candidates are running, shall be nominated thereto.

Assuming that two persons were nominated in June for the county office you mentioned, and that one of them died, it is clear that there is a vacancy on the ballot because of the primary assumption that twice the number of persons to be elected are to be nominated.

This vacancy is filled according to the second paragraph of section 16-0807 which you quoted to me over the telephone. By obtaining the required number of signatures upon the proper petition and filing with the county auditor, the candidate is entitled to have his name placed on the ballot. This all must be done thirty days prior to the general election.

It seems clear that the statute which bars a person who is a candidate in June from becoming a candidate for the same office in November does not apply to no-party offices.

LESLIE R. BURGUM

Attorney General